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JAN 13 2004

Docket Number: 41039

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anderson et al.

Examiner: Nelson YANG

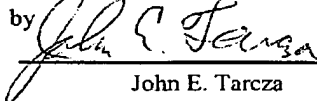
Group Art Unit: 1641

Serial No.: 09/774,794

I hereby certify that this correspondence  
is being facsimile transmitted to the USPTO  
number 703-872-9306 on January 13, 2004

Filed: February 1, 2001

by

For: MICROARRAYS AND THEIR  
MANUFACTURE BY SLICINGJohn E. Tarcza  
Reg. No. 33,638RESPONSE TO REQUIREMENT FOR RESTRICTIONMail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

January 13, 2004

Dear Sir:

In response to the Restriction Requirement mailed December 17, 2003, Applicants hereby elect with traverse Group III, which includes claims 16-18, for examination on the merits. This election is timely filed.

One should note that a patent with 80 claims is not unusual, particularly in the field of biotechnology. However, the examiner has asserted excessively that no fewer than 16 different inventions are found in these claims.

Groups III and V should be considered together because they are a process for producing a novel product and the product itself. Essentially the same search and issues for

*Anderson et al.*  
*Serial No.: 09/774,794*  
*Page 2 of 2*

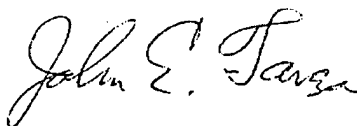
patentability exist for both groups. Therefore, it should not be a burden on the examiner to examine both groups together.

Because of the nature of the invention, it cannot be said that the process claims can make a materially different product because the product claims are products by process and likewise the claims require the product to be made by such a process. The product is not a stock material, composition of matter or even closely related to anything else known, therefore, the examiner's argument of what might be possible is not supported by any showing of evidence.

The thrust of the elected invention relates to a new three-dimensional microarray and its formation and uses. Such microarrays may have similar uses to conventional microarrays but are made by unrelated methods and have a different structure. As the other groups pertain to the general concept with various modifications extending from the basic invention, all of the claims should be examined together and remain in the application for later rejoinder.

The commissioner hereby is authorized to charge payment of any fees under 37 CFR § 1.17, which may become due in connection with the instant application or credit any overpayment to Deposit Account No.500933.

Respectfully submitted,



John E. Tarcza  
Reg. No. 33,638

Date: January 13, 2004

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